

Title VI of the Civil Rights Act of 1964 (Title VI)

Compliance and Complaints

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**Federal Aviation
Administration**



Overview of Title VI

- **What is Title VI and who is covered**
- **Airport sponsor responsibilities**
- **Title VI complaints**
- **Filing a Title VI complaint**
- **Nondiscrimination Notice Requirements**
- **Compliance Reviews**
- **DBE Compliance Reviews**



What is Title VI and who is covered?

No person(s) on the ground of race, color, or national origin (nor creed or sex) is to:

- **Be excluded from participation;**
- **Be denied the benefits of; or**
- **Be otherwise subjected to discrimination**

Under any program or activity receiving Federal financial assistance from DOT



Examples of specific Title VI program areas

- **DBE program**
- **Limited English Proficiency**
- **Environmental Justice**



Airport sponsor responsibilities to assure nondiscrimination

- **Grant applications and contract clauses**
- **Assure that nearby disadvantaged communities have available transportation to the airport to enhance employment opportunities.**
- **Public participation requirements**
 - Assure that non-elected boards, councils, or committees reflect the composition of the community.**
 - Assure all segments of the community are notified of public hearings on proposed airport actions.**



Airport sponsor responsibilities to ensure nondiscrimination, cont'd

- **Assure that existing or proposed facility locations do not or do not have the effect of unnecessarily denying access to any person on the basis of prohibited discrimination.**
- **When relocating a facility, assure against unnecessary impact on persons based on race, color, or national origin.**



Complaints against airlines/air carriers

Refer all complaints having allegations specifically against airlines/air carriers to:

**U.S. Department of Transportation
Aviation Consumer Protection Division, C-75
400 7th Street, SW
Washington, D.C. 20590
202-366-2220 or 800-255-1111
<http://www.dot.gov/airconsumer/>**



Examples of discrimination complaints (based on race, color, national origin, creed, sex) against airlines/air carriers

- **A passenger alleges he is denied boarding a flight because of his national origin and appearance.**
- **A passenger alleges that airline personnel treated him unprofessionally when he was attempting to make a connecting flight because of his race.**



Examples of Title VI complaints against airports

- A member of the public alleges he or she was poorly treated by the airport police because of his ethnicity.
- A DBE concessionaire alleges that the prime concessionaire and the airport forced her to charge low prices for her product. She also alleged she was charged higher rent per square footage in her lease because of her race.



Filing a Civil Rights Complaint

Sponsors must:

- **Notify FAA of complaint within 15 days**
- **Send complaint to:**
 - Regional FAA Civil Rights Office
 - National FAA Civil Rights Office
- **Filed within 180 days**
 - After date of alleged discriminatory act
 - If ongoing, date the conduct was disclosed



Nondiscrimination Notice Requirements

- **49 CFR Part 21 Appendix C (b)(2)(ii) and**
- **28 CFR 42.405(c)**

Requires airport sponsors to conspicuously display sign(s) – furnished by the FAA upon requests – in main public area(s) stating:

Discrimination based on race, color, national origin, sex, creed or disability is prohibited

- **Post a sign in each terminal**
- **Obtain new posters from Regional FAA Civil Right Offices**

Unlawful Discrimination - Resources

Unlawful Discrimination Poster

- It is unlawful for airport operators and their lessees, tenants, concessionaires and contractors to discriminate against any person because of race, color, national origin, sex, creed, or handicap in public services and employment opportunities. Allegations of discrimination should be promptly reported to the Airport Manager or:

- Federal Aviation Administration
Office of Civil Rights, ACR-1
800 Independence Avenue, S.W.
Washington, D.C. 20591

Federal regulations on unlawful discrimination are available for review in the Airport Manager's Office.



Unlawful Discrimination - Resources

- **Title VI Tool Kit**

- **Contact FAA regional civil rights office for a copy**
- **Tools for Federally assisted airports to ensure non-discrimination in airport benefits and services**



Title VI pre-award review

Required if the projects meets one or more of the following criteria:

- 1) Environmental Impact Statement (EIS)**
- 2) Major runway extension**
- 3) Relocation of any structure or person or**
- 4) Impact to the access or preservation of any burial, ceremonial, or other sacred or historical structure or land of any indigenous or ethnic population.**

Airport sponsor must complete the “Title VI Pre-Award Sponsor Checklist” as part of the grant application package for these projects.

Compliance Reviews

FAA monitors compliance through pre/post award compliance reviews and complaint investigations.



DBE COMPLIANCE REVIEWS



What is a DBE Compliance Review?

- **A compliance review is a review by the FAA to determine if an airport recipient is correctly implementing the requirements of the DBE program regulations in 49 CFR parts 23 and 26.**



Program Responsibility

- **FAA may review a recipient's compliance with the DBE program at anytime (49 CFR 26.105).**
- **Airport recipients of AIP funds are required to comply with all requirements of Parts 26 and 23 of the DBE regulations.**
- **Airport sponsors who fail to comply with any requirement will be subject to enforcement actions under section 26.105, or appropriate program sanctions such as suspension or termination of Federal funds, or delayed approval of funds until the deficiency is corrected.**



Preparing for a compliance review: Airport Self -Assessment

- **The DBE and ACDBE regulations**
- **Your DBE and ACDBE Program**
- **Actual implementation at your Airport**



Examples of Review Areas

Basic DBE Program Requirements

- **An approved DBE program by the FAA (for recipients receiving airport planning and development grants who will award prime contracts exceeding \$250,000)**
- **DBE policy statement & distribution**
- **DBE Liaison Officer (DBELO) and adequate staff to administer program**



Examples of Review Areas

Basic DBE program requirements

- **Goal setting process**
- **Race neutral and race conscious efforts**



Examples of Review Areas

Procurement process--Pre-award

- **Contract assurances and clauses**
- **No co-mingling with local requirements**
- **Good faith efforts**
- **Counting DBE Participation**



Examples of Review Areas Procurement Process—Post Award

- **Monitoring Mechanisms in DBE program**
- **Monitoring Actual Work by DBEs**
- **Monitoring Attainments**
- **Prompt Payment and Retainage Mechanisms**



Example: Good Faith Efforts Requirements

- Bidder/offeror commit to meet contract goal, or make good faith efforts if unable to meet goal in whole or in part.
- Bidder/offeror to submit DBE utilization plan, and letter of intent signed by the DBE, or documentation of good faith efforts, if contract goal not met.
- Airport to have procedures for evaluating bidder/offeror's good faith efforts, including administrative due process, and documentation of the airport's determination of good faith efforts.
- Good faith efforts have been determined by airport before awarding contract.



Examples of Good Faith Effort Program Issues

- DBE promised work, but name never submitted to airport.
- DBE's name submitted to airport, but prime contractor did not provide contract work to the DBE.
- Contract awarded without the goal being met, and with the submission of good faith effort documentation after the contract award.
- No documentation of the airport's determination of good faith efforts by the apparent successful bidder or offeror.
- Termination of DBE for convenience permitted even when the good faith effort of prime contractor may be in question.



Examples of Best Practices for Ensuring Good Faith Efforts

- Letter of Intent form signed by both prime contractor and DBE.
- Contract provides that bidder/offeror commits to meet contract goal in good faith.
- DBE utilization form submitted with bid on bid day (in RFP, with the offer). Letter of Intent requested within three days or less of notification of bidder/offeror as apparent successful contractor.
- A copy of DBE utilization form and letter of intent shared with Engineering Office; DBE schedule of work shared with DBELO Office.
- Issues of potential replacement of a DBE shared by Engineering Office with DBELO office in timely manner.



FAA's Goal

- **Technical Assistance**
- **Voluntary Compliance**



Questions?

